

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.358 OF 2006

Eknath Murlidhar Borade

...Appellant/
Plaintiff

V/s.

Murlidhar Tukaram Borade & Ors.

...Respondents/
Defendants

Mr.Shreekant V. Gavand, Advocate, for the Appellant.

Mr.Milind M. Sathaye, Advocate, for Respondent Nos.1 & 2.

CORAM : S.J. VAZIFDAR, J.

DATE : 24TH AUGUST, 2007.

P.C. :

1. The Trial Court has partly decreed the Plaintiff/Appellant's suit for partition. The Defendants filed an Appeal against the same decree. The Appeal was allowed. The Second Appeal is filed against the said judgment and order. The Appellant/Plaintiff did not appeal against the order of the Trial Court refusing partition in respect of some of the properties.

2. Defendant No.1 is the father of the Plaintiff. Defendant Nos.2 and 5 are the Plaintiff's brothers. Defendant Nos.3 & 4 are the Plaintiff's step brothers.

3. The Appellate Court has discussed the evidence

in great detail. The partition has already been effected in 1975. The challenges against the execution of the partition have been negated by the impugned order. There is nothing which suggests that the learned Judge has not appreciated or considered the evidence.

4. It was next contended that the document relied upon by the Defendants did not deal with some of the house properties. The learned Judge has discussed the evidence in detail and came to the conclusion that regarding some of the house properties, it has been established that the same were the self acquired properties of the Defendants and, therefore, did not form a part of the joint family properties. Here again there is nothing to suggest that the evidence was not considered or appreciated.

5. It is further important to note that the learned Judge has held that the Plaintiff had failed to establish that the properties were joint family properties and that he had not stated which houses were purchased from the joint family income. No had the Plaintiff/Appellant furnished any evidence to establish the same.

6. In the circumstances, no question of law arises. The Second Appeal is, therefore, dismissed.